



General Assembly

Distr.: General
19 October 2010
English
Original: Spanish

Sixty-fifth session

Agenda item 45

Question of the Falkland Islands (Malvinas)

Letter dated 18 October 2010 from the Chargé d'affaires a.i. of the Permanent Mission of Argentina to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit herewith a copy of the Declaration by the Rio Group on United Kingdom military activities in the Malvinas Islands, dated 15 October 2010, in reference to the communication sent by British military forces to the Argentine authorities on 8 October 2010, announcing plans to fire missiles from the territory of the Malvinas Islands.

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the General Assembly under agenda item 45, concerning the question of the Malvinas Islands (see annex).

(Signed) **Diego Limeres**

Minister

Deputy Permanent Representative of the
Argentine Republic to the United Nations
Chargé d'affaires a.i.



**Annex to the letter dated 18 October 2010 from the Chargé
d'affaires a.i. of the Permanent Mission of Argentina addressed to
the Secretary-General**

**Declaration by the Rio Group on United Kingdom military
activities in the Malvinas Islands**

With reference to the communication sent by British military forces to the Argentine authorities on 8 October 2010, announcing plans to fire missiles from the territory of the Malvinas Islands, the Rio Group rejects the conduct of such an exercise, which contrasts with the region's consistent policy of seeking a peaceful settlement to the dispute in accordance with the appeals of the international community and the provisions of General Assembly resolution 31/49 that call upon the two parties to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the islands go through the process recommended by the General Assembly.

In this regard, the Government of Argentina addressed a note to the United Kingdom protesting the latter's intention to conduct a military exercise and demanding that the British Government refrain from carrying out its plans. This note has been circulated as an official document of the United Nations and of the Organization of American States.

The Rio Group reaffirms its earlier declarations and reiterates its strong support for the legitimate rights of Argentina in the sovereignty dispute with the United Kingdom of Great Britain and Northern Ireland over the Malvinas Islands. It likewise recalls the enduring interest of the region in the resumption of negotiations between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland with the aim of finding as soon as possible a peaceful and definitive solution to the sovereignty dispute over the Malvinas, South Georgia and South Sandwich Islands, and the surrounding maritime areas, in accordance with the relevant resolutions and declarations of the United Nations and the Organization of American States.

Santiago, 15 October 2010





General Assembly

Distr.: General
19 October 2010

Original: English

Sixty-fifth session

Agenda item 74 (b)

Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Letter dated 13 October 2010 from the President of the Review Conference addressed to the President of the General Assembly

I have the honour to transmit the final report of the resumed Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (A/CONF.210/2010/7) to the General Assembly and to highlight the recommendations and requests for action contained in the outcome of the resumed Review Conference (see A/CONF.210/2010/7, annex, para. 6).

(Signed) David **Balton**
President



**General Assembly
Security Council**Distr.: General
20 October 2010

Original: English

General Assembly
Sixty-fifth session
Agenda item 125Security Council
Sixty-fifth year**International Criminal Tribunal for the Prosecution of
Persons Responsible for Genocide and Other Serious
Violations of International Humanitarian Law
Committed in the Territory of Rwanda and Rwandan
Citizens Responsible for Genocide and Other Such
Violations Committed in the Territory of Neighbouring
States between 1 January and 31 December 1994****Identical letters dated 13 October 2010 from the Secretary-
General addressed to the President of the General Assembly
and the President of the Security Council**

I have the honour to transmit to you the attached letters dated 20 and 23 September 2010 that I have received from Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (see annexes I and II).

In his letter of 20 September 2010, President Byron requests that Judge Joseph Asoka de Silva and Judge Taghrid Hikmet be authorized to complete the *Ndindiliyimana et al.* case notwithstanding that their term of office will expire on 31 December 2010. The case was expected to finish by December 2010; however, owing to staffing problems, it is now projected that the judgement will be delivered in early 2011.

The letter dated 23 September 2010 contains two requests. First, President Byron requests that the Tribunal be allowed to exceed temporarily the maximum number of nine ad litem judges allowed by article 11, paragraph 1, of the statute of the Tribunal. By Security Council resolution 1901 (2009) and General Assembly decision 64/415, the Tribunal was authorized to have up to a maximum of 12 ad litem judges at any one time, returning to a maximum of 9 by 31 December 2010. The Tribunal currently has 12 ad litem judges, and the cases in which they are involved will not be completed by the end of 2010. An extension of the authorization granted in resolution 1901 (2009) and decision 64/415 is therefore necessary.

Second, President Byron requests that either (a) at least three ad litem judges be converted to permanent judges, or (b) the statute be amended to permit ad litem judges to have the same powers as permanent judges, including taking part in



elections of and being elected as President and Presiding Judge. The Tribunal will be left with one permanent judge in the Trial Chambers after the redeployment of four permanent judges to the Appeals Chamber in 2011. The Tribunal will therefore not have enough judges to fill the positions of President and Presiding Judge since, according to the statute, ad litem judges are not eligible for election to these positions. The purpose of the proposal of President Byron is to enable the Tribunal to fill these essential positions without having to appoint new permanent judges. President Byron states that option (a) above would have minor financial implications and that option (b) would not have any financial implications. This request was first submitted to the Security Council and the General Assembly on 2 June 2010 (see A/64/814-S/2010/289), but was not addressed.

It falls to the General Assembly and the Security Council to consider and decide on these requests. Accordingly, I would be grateful if you would bring the letters from President Byron to the attention of the members of the General Assembly and the members of the Security Council.

(Signed) **BAN** Ki-moon

Annex I

Letter dated 20 September 2010 from the President of the International Criminal Tribunal for Rwanda addressed to the Secretary-General

I am writing to you concerning the need for an exceptional authorization by the Security Council to allow permanent Judge Joseph Asoka de Silva and ad litem Judge Taghrid Hikmet to complete their last assignment after the end of their terms of office.

This request is linked to a delay in the judgement delivery in the multi-accused *Ndindiliyimana et al.* trial to which both judges are assigned. I informed the Security Council already during my address in June 2010 that this case was facing particular staffing difficulties with the departure in June 2010 of the Judgement Coordinator, who could not be replaced until today. Four other members of the judgement drafting team also left during the past year. The judgement was expected to be delivered in December 2010; however, the lack of sufficient drafting support and the loss of institutional memory has led to a delay of some months. The judgement delivery is now expected no later than March 2011.

Judge de Silva, a permanent judge who is working part-time with the authorization of the Security Council, is not assigned to any other case and wishes to complete his work at the Tribunal. Ad litem Judge Hikmet is assigned also to the *Hategekimana* and *Kanyarukiga* trials, but in both cases judgements will be delivered in the course of 2010. Therefore, the extension of the terms of office of both judges beyond 31 December 2010 were not requested in the context of Security Council resolution 1932 (2010).

For the reasons set out above, I ask the Security Council that Judge de Silva, on a part-time basis, and Judge Hikmet, notwithstanding the expiry of their term of office of 31 December 2010, be authorized to finish the *Ndindiliyimana et al.* case, which they have begun before the expiry of their term of office. Similar situations have been addressed by the Security Council in resolutions 1241 (1999), 1482 (2003) and, most recently, 1901 (2009).

I would be grateful if you could bring this matter to the attention of the Security Council.

(Signed) Dennis **Byron**
President

Annex II

Letter dated 23 September 2010 from the President of the International Criminal Tribunal for Rwanda addressed to the Secretary-General

This letter supplements my request sent on 20 September 2010 concerning an authorization for Judges de Silva and Hikmet to complete their current assignments beyond the expiry date of their terms of office on 31 December 2010.

With this letter, I wish to draw your attention to two additional requests. For our purposes, it would be sufficient if all three requests were dealt with in one Security Council resolution.

The first additional request is related to my request mentioned above. Recently, Judge Fremr joined the Tribunal to serve again as an ad litem judge on the *Nizeyimana* trial. If Judges de Silva and Hikmet are authorized to work until completion of the *Ndindiliyimana et al.* case, in which judgement delivery is now expected in March 2011, the total number of ad litem judges serving at the Tribunal until the *Ndindiliyimana et al.* judgement delivery would be 12. After this judgement, under the current projections, the number would go down to 10.

Therefore, I request that the Security Council extend further the current exemption from article 11, paragraph 1, of the statute of the Tribunal, as granted until 31 December 2010 in resolution 1901 (2009), concerning the maximum permissible number of ad litem judges serving at the Tribunal.

Concerning the second additional request, I would like to refer to my letter of 25 May 2010. In that letter, I submitted several requests concerning the judges of the Tribunal, which have been addressed in their majority in resolution 1932 (2010). One of these requests has not yet been considered by the Security Council, however, and I would like to draw your attention once more to this issue, which is of major importance to ensuring that the Tribunal will be able to function in 2011. While I will point out the essential elements of my request, I would ask you to refer also to my previous letter for more details.

My second and final term as President, as well as Judge Khan's second term as Vice-President, will expire by the end of May 2011.

We will soon need to start preparations to ensure that these two positions, as well as the positions of Presiding Judges of Trial Chamber II and III, can be filled with resident judges after the end of the current presidency and vice-presidency and after the redeployment of Judge Sekule, the Presiding Judge of Trial Chamber II, and Vice-President Khan, the Presiding Judge of Trial Chamber III, to the Appeals Chamber. We will not be in a position to do so, however, without some action being taken from the responsible United Nations organs.

Articles 13 (2) and (7) of the statute provide that the President and the Presiding Judges are members of a Trial Chamber. According to article 12 quater (2) (a), ad litem judges are not eligible as President or Presiding Judge of a Trial Chamber. It is the practice of the Tribunal to apply the same requirement to the Vice-President.

As I pointed out in my earlier letter, currently only five resident permanent judges serve at the Tribunal, four of whom will be redeployed to the Appeals Chamber: Judge Byron (the President of the Tribunal), Judge Khan (Vice-President and Presiding Judge of Trial Chamber III), Judge Sekule (Presiding Judge of Trial Chamber II) and Judge Ramaroson. The redeployment of four judges will leave only one permanent judge (Judge Tuzmukhamedov) at the Trial Chambers in Arusha. That judge joined the Tribunal only recently, in September 2009.

Therefore, I proposed in my previous letter two cost-effective possibilities as to how to address our need to fill the key functions of the Tribunal without adding new judges. Both options involve relying on the currently serving ad litem judges, who have the necessary experience and institutional memory to perform the functions efficiently.

The first possibility would be the conversion of at least three ad litem judges to permanent judges. As I pointed out in my letter, five of the nine resident ad litem judges whose terms of office have been extended beyond 31 December 2010 do not have the same nationality as any current permanent judge of the Tribunal or any judge of the International Tribunal for the Former Yugoslavia who is or will be serving at the Appeals Chamber (see article 12 bis (1) (b) of the statute). Judge Fremr (the Czech Republic) who recently was reappointed as an ad litem judge also fulfils the requirements. The proposed conversion would require that the Security Council authorize the Secretary-General to appoint, pursuant to article 12 bis (2) of the statute, the three judges in lieu of the three permanent judges who have left the International Criminal Tribunal for Rwanda, notwithstanding that the terms of the three permanent judges have expired.

A second option to address the lack of sufficient permanent judges would be to amend the Tribunal statute and to enable ad litem judges to fill the key functions of the Tribunal. This would require an amendment of the statute of the Tribunal by deleting article 12 quater (2) and amending article 13 so that ad litem judges would have the same powers as permanent judges, including eligibility as President, Presiding Judge of a Trial Chamber and, consequently, as Vice-President.

Both options would have no or only minor financial implications. In the first option, ad litem judges converted to permanent judges would only become entitled to education grants and education grant travel for their eligible children. The judges would not be entitled to pension rights, unless their term as permanent judges was extended beyond three years, which is unlikely under the time frame of the current completion strategy. In the second option, there would be no financial implications at all.

As we are approaching 2011 and need to make preparations to ensure the functioning of the Tribunal throughout the next year, I would be grateful if you could bring both my additional requests to the attention of the Security Council and the General Assembly for appropriate action.

(Signed) Dennis **Byron**
President



General Assembly

Distr.: General
21 October 2010
English
Original: Spanish

Sixty-fifth session

Agenda item 45

Question of the Falkland Islands (Malvinas)**Letter dated 19 October 2010 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General**

I have the honour to refer to the letter, dated 2 August 2010, from the Chargé d'affaires of the Permanent Mission of the United Kingdom to the United Nations addressed to the Secretary-General concerning the press release issued by the Argentine Government on the Day of Affirmation of Argentine Sovereignty over the Malvinas Islands and the Antarctic Sector in commemoration of the establishment in 1829 of the Political and Military Command for the Malvinas Islands.

The Argentine Republic rejects each and every one of the statements contained in the said letter and regrets that the British Government should be trying to misrepresent historical facts in an attempt to conceal the act of usurpation it committed in 1833; this act has, since the moment the British invaded, been the subject of continuing and repeated protests by Argentina. This misrepresentation also demonstrates that the United Kingdom is not certain about what it considers its "rights" on the question of the Malvinas Islands.

The Argentine Republic would like to remind the United Kingdom that the two countries undertook unequivocally "to find a peaceful solution to the problem" concerning their dispute over sovereignty pursuant to General Assembly resolution 2065 (XX). Rather than trying to refute historical facts which it has already admitted occurred and the consequences of which it also recognizes, the United Kingdom should honour that commitment and immediately resume negotiations with Argentina on sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas in order to reach a just and definitive solution to this dispute. Should it do so, the United Kingdom would be acting lawfully and responsibly, that is to say the way that same country expects the rest of the international community to act from its privileged position within the United Nations.

The Argentine Republic reiterates that the principle of self-determination of peoples, the sole element on which the United Kingdom bases its alleged rights and which is mentioned exclusively in relation to the Malvinas Islands, is totally and manifestly inappropriate and does not apply to the dispute between the two



countries concerning sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands.

Likewise, the Argentine Republic regrets that the United Kingdom should continue irresponsibly to fan the hopes of the inhabitants of the Malvinas Islands based on the illicit appropriation of Argentine natural resources in open violation of international law and in contradiction of the pronouncements of international bodies. In that connection, it would like to point out that the interests and way of life of those inhabitants are adequately protected by the relevant General Assembly resolutions and by the Constitution of the Argentine Republic, respectively.

The Argentine Republic deeply regrets the fact that the United Kingdom should try to take advantage of a humanitarian initiative, such as the recent visit to the Malvinas Islands by relatives of Argentine citizens who are buried there, in order to misrepresent — unsuccessfully — the nature of the dispute. Such visits are the product of bilateral agreements between Argentina and the United Kingdom dated 14 July 1999, which is why these initiatives are strictly bilateral in nature.

The Argentine Republic reaffirms its sovereign right over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, which are part of its national territory, and urges all States to cooperate in pursuit of the full implementation of General Assembly resolutions 2065 (XX), 3160 (XXVIII), 31/49, 37/9, 38/12, 39/6, 40/21, 41/40, 42/19 and 43/25; it asks them to refrain from encouraging behaviour that is likely to impede the achievement of the goals set forth in those resolutions.

I should be grateful if you would have this note circulated as a document of the General Assembly under agenda item 45 concerning the question of the Malvinas Islands.

(Signed) Jorge Argüello
Ambassador
Permanent Representative